IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Crl.Rev.Pet.No. 198 of 2000()

CRRP.131/1997 of 2ND ADDL. SESSIONS COURT, PALAKKAD
MC.28/1995 of JUDL.MAGISTRATE OF FIRST CLASS COURT, CHITTUR
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REVN. PETITIONER: RESPONDENT/ CR.PETITIONER

MOHAN @ KRISHNA MOORTHY,
S/O. PONNANDY, THANIYAM PADATHU
THATHAMANGALAM, CHITTOOR TALUK,
PALAKKAD DISTRICT.

BY ADV. SRI.K.SAJAN VARGHESE

RESPONDENTS: REVISION PETITIONERS/PETITIONERS
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1. **RADHA, D/O. SUKUMARAN,**
NILAMPATHIYIL HOUSE,
ALUVASSERRY POST, NEMMARA,
CHITTOOR TALUK, PALAKKAD DISTRICT.

2. **SAJITH KUMAR, S/O. RADHA,**
AGED 15 YEARS, -DO- -DO-

3. **REKHA, D/O. RADHA, AGED 11 YEARS, DO- -DO-**

(MINORS 2 AND 3 BY GUARDIAN MOTHER RESPONDENT NO.1.

BY ADV. SRI.H.BADARUDDIN
PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 07/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

tss

CRL.MP. NO.1139/2000 IN CRL.RP. NO.198/2000

DISMISSED

07.09.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.A. TO JUDGE

tss

K.R.UDAYABHANU, J

Crl.R.P.No.198 of 2000

Dated this the 7th day of September, 2007

O R D E R

The revision petitioner is the respondent in M.C.No.28/95 in the file of Judicial First Class Magistrate Court- Chittur in which the petitioners are his wife and 2 minor children. It is the contention of the revision petitioner that there was no marriage between himself and the first petitioner. The trial court had allowed maintenance only to petitioners 2 and 3, the paternity of whom is admitted by the revision petitioner, and ordered to pay maintenance at the rate of Rs.150/- per month each. The Sessions Judge in revision reversed the finding with respect to the first petitioner/wife and ordered that she also is entitled for maintenance at the rate of Rs.150/- per month.

2. The evidence adduced in the matter consisted of the testimony of PWs' 1 and 2, CPW1 and Exts. D1 and D2.

3. The trial court has held that there is nothing to disbelieve the version of PWs' 1 and 2 i.e., the first petitioner and her mother. PWs' 1 and 2 have testified with respect to the

marriage and it is their version that the marriage had taken place at Nellikulangara temple about 14 years back. PW1 has testified as to the ceremonies performed. The counsel for the revision petitioner has relied on Ext. D1 agreement which was executed after 14 months of their living together as husband and wife as per the recitals of the document. It is pointed out that in Ext. D1 there is no specific mention that the marriage has been conducted. It is the contention that Ext. D1 was executed as no marriage was conducted. The independent witnesses were not examined. It is to be noted that meticulous evidence as in a civil case is not required in proceedings under Section 125 Crl.P.C. Of course, PWs' 1 and 2 could not recollect the exact date or year when the marriage had taken place. It appears that PWs' 1 and 2 are illiterate. It was in the above circumstances, the appellate court found that the evidence of PWs' 1 and 2 has to be believed. Moreover, the amount of maintenance ordered is at the rate of Rs.150/- per month. I find no reason to interfere in the findings of the court below. Counsel for the revision petitioner has pleaded for granting time to pay the amount of arrears of maintenance.

The revision petitioner is granted six months' time to pay the arrears of maintenance.

The criminal revision petition is dismissed.

K.R.UDAYABHANU,
JUDGE

csl